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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,847	03/04/2002	Anthony Splaver	2893-17	5910
20575	7590	12/05/2005		
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204				
			EXAMINER TAYLOR, BARRY W	
			ART UNIT 2643	PAPER NUMBER

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,847

Applicant(s)

SPLAVER ET AL.

Examiner

Barry W. Taylor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 and 3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ung et al (6,694,000 hereinafter Ung) in view of Joyce et al (6,381,316 hereinafter Joyce) cited on the Ung patent.

Regarding claims 2-3. Ung teaches a method for storing electronic communications for access over a global communications system, comprising:

establishing a prepaid account including a validation number and an account balance (col. 2 lines 42-47, see Replenishment History figure 3, figure 4);

receiving an electronic communication to the prepaid account (see columns 2-4 wherein the electronic communication is CDR information relating to subscriber's prepaid account);

storing the electronic communication in a central repository (see web gateway 120 figure 1 used as central repository for WEB Based Prepaid Reporting Page);

logging in to the central repository from a remote computer using the validation number (see subscriber uses Internet device 300 figure 1 to log into the Web Gateway 120 from remote locating via Internet 250 connection);

serving the electronic communication to the remote computer (see figure 3 wherein electronic information is displayed on Web page to subscriber); and

decrementing the prepaid account.

Ung does not explicitly show wherein the electronic communication is voice mail or facsimile.

Joyce teaches an enhanced communication platform and related communication method using the platform supporting the use of personal identification number access cards for use in fixed and mobile markets from any communication device located anywhere in the world providing flexible call processing and switching services that deliver enhanced computer telephony capabilities (abstract). Joyce discloses using calling cards used for advanced communications, such as voice mail, call forwarding, call conferencing, faxes, etc. (col. 2 lines 60-67, col. 3 lines 1-38, col. 3 lines 52-65, col. 5 lines 48-62, col. 6 lines 16-30, col. 8 lines 35-58, col. 9 line 60 – col. 10 line 51, col. 11

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lines 3-65, col. 15 lines 21-31, col. 17 lines 30-50, col. 20 line 45). Joyce even charges for the services provided to subscriber by decrementing a charge from a pre-paid user account or adding a charge to a credit account (col. 4 lines 7-42, col. 9 lines 5-23, col. 12 line 67 – col. 13 line 12, col. 20 lines 25-50). Joyce provides visual access to subscriber (see web page used col. 5 lines 60-62, columns 12-13, col. 14 lines 1-36, col. 15 lines 1-5, col. 15 lines 11-63, col. 20 lines 25-50). In summation, Joyce teaches using prepaid account with validation number used for Voice Mail and Conferencing (see lower right side of figure 1 (i.e. block 27) which list services offered to customers worldwide by using prepaid account (see block 27 connected to “PIN SERVER” directly above block 27). Furthermore, it is noted that the services listed in block 27 (figure 1) may also include “facsimile” and other services (see at least col. 20 line 45).

It would have been obvious for any one of ordinary skill in the art at the time of invention to modify the web page as taught by Ung to include prepaid account information as taught by Joyce for the benefit of offering additional services, such as voice mail and facsimile to subscribers for additional fees charged to subscriber's pre-paid account.

Response to Amendment

2. The DECLARATION filed on 9/19/05 under 37 CFR 1.131 has been considered but is ineffective to overcome the Ung et al reference (U.S. Patent 6,694,000).

The Ung et al reference is a U.S. patent or U.S. patent application publication of a pending or patented application that claims the rejected invention. An affidavit or

declaration is inappropriate under 37 CFR 1.131(a) when the reference is claiming the same patentable invention, see MPEP § 2306. If the reference and this application are not commonly owned, the reference can only be overcome by establishing priority of invention through interference proceedings. See MPEP Chapter 2300 for information on initiating interference proceedings. If the reference and this application are commonly owned, the reference may be disqualified as prior art by an affidavit or declaration under 37 CFR 1.130. See MPEP § 718.

The Examiner notes that the Declaration filed on 9/19/05 is exactly the same as Applicant's related application 09/817,800 claiming benefit of provisional application 60/273,148 currently under Appeal. The provisional application 60/273,148 matches **word for word** with Applicants Declaration to overcome the Ung et al reference. The drawings of the Declaration also match the provisional application.

The Examiner notes that related application 09/817,800 claims benefit to provisional application 60/273,148 which is directed towards selecting a browser interval in conjunction with prepaid account (see Applicants Appeal Brief filed 11/24/03 for application 09/817,800) which can be used for desired services including E-mail, facsimile, telephone services and so on (see Examiner's Answer filed 2/25/04 for application 09/817,800).

Response to Arguments

3. Applicant's arguments filed 9/19/05 have been fully considered but they are not persuasive.

a) Regarding Applicants remarks on page 4, paper dated 9/19/05 wherein Applicants contend that the Declaration filed 9/19/05 overcomes the prior art invention.

The Examiner disagrees. The Declaration filed on 9/19/05 is exactly the same as Applicant's related application 09/817,800 claiming benefit of provisional application 60/273,148 currently under Appeal. The provisional application 60/273,148 matches **word for word** with Applicants Declaration to overcome the Ung et al reference. The drawings of the Declaration also match the provisional application.

The Examiner notes that related application 09/817,800 claims benefit to provisional application 60/273,148 which is directed towards selecting a browser interval in conjunction with prepaid account (see Applicants Appeal Brief filed 11/24/03 for application 09/817,800) which can be used for desired services including E-mail, facsimile, telephone services and so on (see Examiner's Answer filed 2/25/04 for application 09/817,800).

The Examiner notes that it is extremely well known to rename old components and claim as a new invention.

Conclusion

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor, telephone number (571) 272-7509, who is available Monday-Friday, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached at (571) 272-7499. The central facsimile phone number for this group is **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Centralized Delivery Policy: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the central fax number **(571-273-8300)**.



Barry W. Taylor
Primary Examiner
Technology Center 2600
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